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developed or paid for the joint development of a common set of data to support their applications for registration, then each applicant shall be charged an equal share of the total fee for review of the applications for all of the subject products. The total fee will include the sum of the new chemical registration review fee for one product and one old chemical registration review fee for each additional product.

(c) If an application is received for registration of a product that contains two or more new chemical active ingredients and a different set of generic data is required by the Agency for each new chemical for the purpose of registration, the applicant will be required to pay the full new chemical registration review fee for each active ingredient.

§ 152.410 Adjustment of fees.

(a) The fee schedule will be adjusted annually by the same percentage as the percent change in the Federal General Schedule (GS) pay scale. Such adjustments will be published in the FEDERAL REGISTER as a final rule and will be effective 30 days or more after promulgation.

(b) Processing costs and fees will be reviewed periodically and changes will be made to the schedule as necessary. Such adjustments will be published for notice and comment in the FEDERAL REGISTER.

§ 152.412 Waivers and refunds.

(a) *Refunds.* If an application is not accepted for processing because it is incomplete, the fee, less \$1,200 for handling and initial review (or the amount of the fee, whichever is less), shall be returned. If an application is withdrawn by the applicant before significant Agency scientific review has begun, the fee, less \$1,200, shall be returned. If an unacceptable or withdrawn petition is resubmitted, it shall be accompanied by the fee that would be required if it were submitted for the first time.

(b) *Waiver of fees for activities initiated by the Agency.* The Agency may waive fees for amended registrations where the amendment has been initiated solely by the Agency. The Agency retains sole discretion in determining when

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this fee will be waived. The announcement of the fee waiver will accompany the EPA request for an amendment. The Agency will not approve any individual requests for waivers of EPA-initiated activity fees.

(c) *Waiver of fees for activities initiated by applicants.* Upon request by an applicant, together with the supporting documentation or justification described in this paragraph, the Agency may waive or refund fees in whole or in part. A request for waiver must be submitted in accordance with § 152.414(a). An application for which a waiver of fees has been requested will not be accepted for review until the waiver has been granted, or until the waiver has been denied and thereafter the proper fee has been submitted.

(1) *Minor use.* Fees may be waived for applications limited to minor uses that lack commercial feasibility for the pesticide applicant. An applicant requesting a waiver on this basis must provide supporting information that demonstrates that anticipated revenues from the uses that are the subject of the application would be insufficient to pay back the cost of the fee. The burden of proof of the reasonableness of this estimate rests with the applicant.

(2) *IR-4.* Fees will be waived for registration actions that are determined to be specifically associated with tolerance petitions submitted by the Inter-Regional Research Project Number 4 (IR-4 program) when such waiver is deemed by the Agency to be in the public interest.

(3) *Severe economic impact.* The Agency may waive two-thirds of any cumulative registration fee payment in a 12-month period following completion of the applicant's most recent fiscal year that exceeds 3 percent of the applicant's pesticide sales in its most recently completed fiscal year. An applicant requesting a waiver on this basis must provide documentation (e.g. copy of an annual report, or income tax forms filed with the Internal Revenue Service, or if needed, a notarized statement signed by a corporate officer regarding annual pesticide sales) demonstrating that:

(i) The company applying had less than \$40 million in gross revenue (including all revenue sources) in the

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most recently concluded fiscal year of operation, and a single fee would constitute more than 3 percent of the applicant's gross revenue from pesticide sales in the most recently completed fiscal year of operation, or

(ii) The company applying had less than \$40 million in gross revenue (including all revenue sources) in the most recently concluded fiscal year of operation, and the cumulative registration fees paid during the 12 months following the applicant's most recently completed fiscal year, including any registration fees paid for the applicant for which a waiver is requested, constitute more than 3 percent of the applicant's gross revenue from pesticide sales in the most recently concluded fiscal year of operation.

(iii) The Agency will not grant such a waiver if it determines that the entity submitting the application has been formed or manipulated to qualify for such a waiver.

(4) *Public interest.* The Agency, in its discretion, may waive in whole or in part any of the fees established herein in the public interest. Examples include, but are not limited to, pesticides offering unique advantages for reducing public health risks, those that significantly reduce a current environmental risk, or a product with extraordinary utility for use in Integrated Pest Management (IPM).

[53 FR 19114, May 26, 1988, as amended at 58 FR 34203, June 23, 1993]

§ 152.414 Procedures.

(a) *Procedures for requesting a waiver.*

(1) A request for a waiver must be submitted in writing at the time the application is submitted to the Office of Pesticide Programs' Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b).

(2) A payment of \$1,200 for processing the waiver or the amount of the actual fee, whichever is less, must be submitted simultaneously to the address set forth in paragraph (b) of this section. This fee will be refunded (or applied to any resulting partial fee) if the waiver is granted. Payment of fees for the registration activities, in contrast to the waiver fee, shall not be required until the Agency makes a determination on the waiver request. Since the

actual fee is submitted to an address different than the one to which the waiver request is submitted, a copy of the payment document must be submitted with the waiver request that is submitted to the Office of Pesticide Programs' Document Processing Desk as described in paragraph (a)(1) of this section. No fee is required from a person who has no financial interest in the application.

(b) *Procedures for payment of fees.* All fees required by this section must be paid by money order, bank draft, or certified check drawn to the order of the Environmental Protection Agency. All payment of fees must be forwarded to the Environmental Protection Agency, Headquarters Accounting Operations Branch, Office of Pesticide Programs (Registration Fees), P.O. Box 360277M, Pittsburgh, PA 15251. The payments should be specifically labeled "Registration Fees" and should be accompanied only by a copy of the registration application form or the experimental use permit application form, as appropriate. An application will not be accepted for processing until the required fees have been submitted.

(c) *Procedures for submitting application and supporting data.* The application, along with supporting data, shall be forwarded within 30 days of payment to the Washington DC address set forth in paragraph (a)(1) of this section.

[53 FR 19114, May 26, 1988, as amended at 58 FR 34203, June 23, 1993; 69 FR 39864, July 1, 2004; 71 FR 35545, June 21, 2006]

Subparts V–Y [Reserved]

Subpart Z—Devices

§ 152.500 Requirements for devices.

(a) A device is defined as any instrument or contrivance (other than a fire-arm) intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than a bacterium, virus, or other microorganism on or in living man or living animals) but not including equipment used for the application of pesticides (such as tamper-resistant bait boxes for rodenticides) when sold separately therefrom.